

FILED

FEB -6 2020

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
AKRON

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

| | | |
|---------------------------|---|-----------------------------------|
| UNITED STATES OF AMERICA, |) | <u>S U P E R S E D I N G</u> |
| |) | <u>I N F O R M A T I O N</u> |
| Plaintiff, |) | |
| |) | CHIEF JUDGE PATRICIA A. GAUGHAN |
| v. |) | |
| |) | CASE NO. <u>5:19CR449</u> |
| DAYVIAIRE ROGERS, |) | Title 21, United States Code, |
| |) | Sections 841(a)(1) and (b)(1)(C); |
| Defendant. |) | Title 18, United States Code, |
| |) | Sections 922(g)(1), |
| |) | 924(c)(1)(A)(iii) and 1951(a) |

COUNT 1

(Possession With Intent To Distribute and Distribution of Fentanyl, 21 U.S.C. §§ 841(a)(1) and (b)(1)(C))

The United States Attorney charges:

1. On or about March 16, 2019, in the Northern District of Ohio, Eastern Division, Defendant DAYVIAIRE ROGERS did knowingly and intentionally distribute a mixture and substance containing a detectable amount of fentanyl, a Schedule II controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C).

ENHANCED PENALTY UNDER TITLE 21,
UNITED STATES CODE, SECTION 841(b)(1)(C)
(Death or Serious Bodily Injury Resulting from Use of Controlled Substance)

The United States Attorney further charges:

2. The allegations of Count 1 are hereby re-alleged and incorporated by reference herein. It is further alleged that on or about March 16, 2019, in the Northern District of Ohio, Eastern Division, K.S., did fatally ingest and overdose on controlled substances, namely fentanyl, that had been distributed by DAYVIAIRE ROGERS to K.S. (the deceased person).

3. As a result of DAYVIAIRE ROGERS' distribution of fentanyl, as alleged in Count 1, death did result from the use of fentanyl, a Schedule II controlled substance.

All in violation of the enhanced penalty provisions of Title 21, United States Code, Section 841(b)(1)(C).

COUNT 2

(Interference with Commerce by Robbery, 18 U.S.C. § 1951(a))

The United States Attorney further charges:

4. At all times material to this Information, Welcome Grocery, located at 210 E. Cuyahoga Falls Avenue, Akron, Ohio, was engaged in the retail sale of articles and commodities that had moved in and affected interstate commerce.

5. On or about April 20, 2019, in the Northern District of Ohio, Eastern Division, Defendant DAYVIAIRE ROGERS did unlawfully obstruct, delay, and affect commerce, as that term is defined in Title 18, United States Code, Section 1951(b)(3), and the movement of articles and commodities in such commerce, by robbery, as that term is defined in Title 18, United States Code, Section 1951(b)(1), in that DAYVIAIRE ROGERS did unlawfully take and obtain property, consisting of United States currency, in the custody, possession, and presence of employees of Welcome Grocery, located at 210 E. Cuyahoga Falls Avenue, Akron, Ohio, against the employees' will, by means of actual and threatened force, violence, and fear of immediate injury to said employees, that is by brandishing and discharging a firearm, in violation of Title 18, United States Code, Section 1951(a).

COUNT 3

(Possession of Firearm and/or Ammunition by Convicted Felon,
18 U.S.C. § 922(g)(1))

The United States Attorney further charges:

6. On or about April 20, 2019, in the Northern District of Ohio, Eastern Division, Defendant DAYVIAIRE ROGERS, knowing he had previously been convicted of crimes punishable by imprisonment for a term exceeding one year, those being: Burglary, on or about August 31, 2011, in Case Number 2011-06-1493(B), in Summit County Common Pleas Court; Trafficking in Heroin, on or about December 5, 2013, in Case Number CR 2013-10-2855(B), in Summit County Common Pleas Court; and Trafficking in Heroin, on or about October 5, 2016, in Case Number CR 2016-05-1557(A), in Summit County Common Pleas Court, knowingly possessed a firearm, to wit: a loaded FMK, Model 9C1 G2, 9mm pistol, bearing serial number BUG0352 and ammunition, the firearm and ammunition having previously been shipped and transported in interstate commerce, in violation of Title 18, United States Code, Section 922(g)(1).

COUNT 4

(Discharging a Firearm During and in Relation to a Crime of Violence,
18 U.S.C. § 924(c)(1)(A)(iii))

The United States Attorney further charges:

7. On or about April 20, 2019, in the Northern District of Ohio, Eastern Division, Defendant DAYVIAIRE ROGERS did knowingly discharge a firearm, specifically, an FMK, Model 9C1 G2, 9mm pistol, bearing serial number BUG0352, during and in relation to a crime of violence for which he may be prosecuted in the United States, that is, Interference with Commerce by Robbery, in violation of Title 18, United States Code, Section 1951(a), as charged


in Count Two of the Superseding Information herein, in violation of Title 18, United States Code, Section 924(c)(1)(A)(iii).

FORFEITURE

The United States Attorney further charges:

8. The allegations contained in Counts 1 through 4, inclusive are hereby re-alleged and incorporated by reference as if fully set forth herein for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 924(d)(1) and Title 28, United States Code, Section 2461(c) [Counts 2–4]; Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c) [Count 3]. As a result of these offenses, Defendant DAYVIAIRE ROGERS shall forfeit to the United States any and all firearms and ammunition involved in or used in the commission of the offenses; and, any and all property, real and personal, which constitutes - or is derived from - proceeds traceable to the commission of the offense charged in Count 3; any and all property used or intended to be used, in any manner or part, to commit or to facilitate the commission of the offense charged in Count 2; including, but not limited to, the following: FMK Model 9C1 G2 9mm pistol, bearing serial number: BUG0352, with (13) rounds of ammunition.

JUSTIN E. HERDMAN
United States Attorney

By: 
MICHELLE M. BAEPLER
Attorney in Charge, Criminal Division
Akron Branch Office